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Notice of Appeal
Pre-Appeal Brief Request for Review
Appln. No. 10/029,159
Filed: 12/21/2001
Group Art No: 3621
Final Office Action Mailed: 12/21/2005

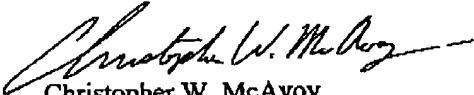
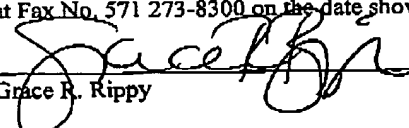
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PRE-APPEAL BRIEF REQUEST FOR REVIEW (filed with the Notice of Appeal)		Docket Number NC25636 (289713)
Application Number 10/029,159	Filed 12/21/2001	
First Named Inventor Deeds et al.		
Art Unit 3621	Examiner Firmin Backer	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>Respectfully submitted,</p> <p> Christopher W. McAvoy Registration No. 57,055</p> <p>Date <u>January 25, 2006</u></p> <p>Customer No. 00826 ALSTON & BIRD LLP Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Charlotte Office (704) 444-1000 Fax Charlotte Office (704) 444-1111</p>		
<div style="border: 1px solid black; padding: 10px;"><p style="text-align: center;">CERTIFICATION OF FACSIMILE TRANSMISSION</p><p>I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. 571 273-8300 on the date shown below.</p><p> _____ Grace R. Rippey</p><p style="text-align: right;">_____ January 25, 2006 Date</p></div>		

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Appl. No.: 10/029,159
Filing Date: December 21, 2001

Attachment
Reasons for Requesting Pre-Appeal Brief Request For Review

This communication is filed in response to the final Official Action of December 21, 2005. The final Official Action continued to reject Claims 21-27 and 33-42 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. US 2002/0010698 to Dong Wook Shin, et al. ("Shin"). As explained below, however, Applicants respectfully submit that the claimed invention of the present application is patentably distinct from Shin. Applicants, therefore, respectfully request reconsideration and reversal of the aforementioned rejections.

I. The Present Invention

In general terms, embodiments of the present invention are directed to locking selected content in a user device, such as a wireless mobile device, such that the selected content is repeatedly presented until a locking requirement is met. The selected content may take various forms, including a ring tune or a screen saver that is presented by being played or displayed, respectively, until the locking requirement is met. The locking requirement can also take various forms, such as a predefined number of days or a predefined amount of usage (e.g., a predefined number of instances in which a ring tune is played or a screen saver is displayed).

As described in the specification, in one example, a network based device can present the user of a wireless mobile device with the opportunity to lock in some selected content in exchange for a reward, such as a discounted movie ticket. In some instances, the user is presented with several different locking requirements associated with the same selected content. For example, the different locking requirements may require the selected content to be locked in for longer periods of time or to be used more times in return for greater rewards, such as a more deeply discounted movie ticket. The user can then select one of the locking requirements, and the selected content and associated locking requirement are then downloaded from the network based device and stored by the user device. Thereafter, the selected content is provided to the user in accordance with the locking requirement. In this regard, the selected content may be repeatedly presented by the user device until the selected locking requirement is met. For example, a user may lock a ring tune that is a snippet of a new movie's theme song, for two weeks in exchange for 50% off of a ticket to that same movie. Thus, the selected ring tune would be played in response to every incoming call during the next two weeks.

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II. The Shin Publication

In contrast to the claimed invention, the Shin publication describes a method of securing electronic documents and/or text messages that are transmitted through a network. These electronic documents are secured by a locking function that locks the message (preventing the message from being presented) until some predefined reading condition is met. Exemplary reading conditions include a date on which the electronic document can be opened, a particular reader who can open the electronic document, or questions that a potential reader must answer correctly in order to access the locked electronic document. These reading conditions are chosen by the drafter of the electronic message and prevent the receiving device from accessing the document unless the reading conditions are satisfied.

III. Independent Claims 21 and 22

Independent Claim 21 is directed to a method for providing selected content from a network based device to a user device. The network based device receives an indication of the selected content, presents at least one locking requirement associated with the selected content to the user device, and receives a selection of at least a first locking requirement from the user device in response to the presentation of at least one locking requirement. Thereafter, the network based device provides the selected content from the network based device to the user device together with the at least first locking requirement, thereby permitting the selected content to be operated upon pursuant to the first selected locking requirement.

In contrast to Shin, independent Claim 21 recites that at least one locking requirement is presented to the user device, and a selection of at least the first locking requirement is received at the network based device from the user device such that the selected content and at least the first locking requirement that has been selected are thereafter provided by the network based device to the user device. Thus, the user device to which the network based device eventually downloads the selected content and the selected locking requirement is also the user device at which at least one locking requirement is initially presented and at which a selection of at least the first locking requirement is received. With reference to Shin by contrast, the source of an electronic document (not the recipient) selects a locking condition to be associated with the electronic document prior to downloading or transmitting the electronic document to a recipient. For example, in Shin, the drafter or distributor of an electronic document may select to password

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protect the electronic document prior to transmitting the electronic document to a recipient.

Furthermore, in Shin, the user device (the eventual recipient of the selected content) is not presented with a locking function that the user device previously had an option to select prior to the downloading of the electronic message with the selected locking function. In contrast, Shin describes a method where the user device downloads an electronic document that is already associated with a locking function. The final Office Action cites the flowchart in FIG. 3A of Shin as showing where the user device selects a locking function prior to the downloading of the electronic message with the selected locking function. However, Claim 21 of the present application defines the "user device" as the eventual receiver of the selected content. In contrast, Paragraph 0024 of Shin makes it clear that FIG. 3A describes the actions of the drafter of the electronic document that is to be locked. Specifically, Paragraph 0024 describes step 303 of FIG. 3A as showing the drafter of the electronic document selecting at least one locking method among those provided from the locking management server.

Similar to independent Claim 21, independent Claim 22 recites receiving at least one locking requirement at the wireless mobile device, selecting acceptance of at least a first locking requirement at the wireless mobile device, and then receiving the selected content and storing the selected content at the wireless mobile device following selection of the content and the first locking requirement. As described above, Shin does not teach the presentment of at least one locking requirement at a wireless mobile device and the subsequent acceptance of a first one of the displayed locking requirements by the wireless mobile device to which the selected content is thereafter downloaded and stored. In contrast, in Shin, the locking condition is applied to an electronic document by the drafter of the document prior to transmission to a recipient.

IV. Independent Claim 35

Independent Claim 35 recites a mobile device including a content manager capable of selectably locking the selected content pursuant to a first selected locking requirement such that the selected content is repeatedly presented until the first selected locking requirement is met, determining when the first selected locking requirement is met, and unlocking the selected content when the first selected locking requirement is determined to have been met such that the selected content is no longer required to be repeatedly presented. As described by independent Claim 35, the selected content is therefore repeatedly presented until the first selected locking

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requirement is met, at which time the selected content need no longer be repeated. In direct contrast, Shin describes a method of locking an electronic document that prohibits the electronic document from being opened and operated until after the locking condition is met. Thus, independent Claim 35 recites the repeated presentation of the selected content until the first selected locking requirement is met, while Shin describes the prevention of the presentation or other operation of the electronic document until the locking condition is met.

In Shin, if someone tries to improperly access the protected electronic document, the person seeking access may be provided with a guide message such as "please wait" if the document is protected for a specific length of time, or "You are not the right person" if the person enters the wrong name or password or fails a quiz question required to unlock the document. A prior Office action equated the guide message of Shin to the repeated presentation of the selected content of independent Claim 35. However, in contrast to Shin, the mobile device of Claim 35 repeatedly presents the selected content until the first selected locking requirement is met, at which time the selected content is no longer required to be repeated. In Shin, the specific purpose of the locking requirement is to prevent display of the selected content until the locking requirement is satisfied. Any guide message that is presented before the document is unlocked is not the "selected content" that is locked into wireless mobile device and repeatedly presented, as recited by independent Claim 35.

V. Independent Claims 36 and 39

Independent Claim 36 includes a step of presenting at least a first locking requirement associated with the selected content to a user device with the locking requirement defining a specific period of time or a specified amount of usage for which the content is locked in the user device and is required to be presented. Independent Claim 36 further recites that the selected content and the first locking requirement are provided from a network based device to the user based device to permit the selected content to be repeatedly presented until the first selected locking requirement is met. Similarly, independent Claim 39 includes the step of receiving the first locking requirement associated with selected content at a user device with the locking requirement defining a specific period of time or a specific amount of usage for which the content is locked in and required to be presented at the user device. After having accepted the first locking requirement, the selected content is received and stored and thereafter repeatedly

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presented with the user device until the first selected locking requirement is met. As described above, Shin does not define a locking requirement in terms of either a specific period of time or a specific amount of usage for which the content is locked in and required to be presented at the user device. Instead, as described by Shin, the electronic document is actually prevented from being accessed by the user device so long as the locking condition is not met. Additionally, as described above, Shin does not teach or suggest the repeated presentation of the selected content until the first selected locking requirement is met, as recited by independent Claims 36 and 39.

VI. Independent Claim 42

Independent Claim 42 is directed to a wireless mobile device that includes a content manager for receiving and managing selected content. In regards to the management of the selected content, the content manager of independent Claim 42 locks in the selected content pursuant to a first locking requirement such that the selected content is repeatedly presented until the first locking requirement is met. As described above, Shin does not teach or suggest the repeated presentation of the selected content until the first selected locking requirement is met. Independent Claim 42 also defines the wireless mobile device to include a memory for storing a plurality of profiles. Each profile includes an identifier indicative of the use of the locked in selected content. Shin does describe the structure of a locked document as shown in Figure 2B to have a number of fields including a field indicative of whether or not the document is locked, a field that defines the locking condition, a field that defines the message to be presented if the locking condition is not satisfied, and a field that contains hierarchy information such as the author. However, none of the fields of the structure of the locked document nor any other portion of Shin teaches or suggests a memory containing profiles that each include an identifier indicative of the use of the locked-in selected content, as set forth by independent Claim 42. Instead, in Shin, once the locking condition is satisfied, a user is not limited in the use that can be made of the electronic document.

Conclusion

For each of the foregoing reasons, Applicants submit that independent Claims 21, 22, 35, 36, 39, and 42, as well as the claims that depend therefrom, are not taught or suggested by the cited reference. Thus, Applicants respectfully request that the rejection of Claims 21-27 and 33-42 under 35 U.S.C. § 102(e) as being anticipated by the Shin publication be reversed.